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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

5
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10 Attorneys for Plaintiff, Jacqueline Garcia

11
12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION
15

16
17 Jacqueline Garcia,

18 Plaintiff,

19 vs.
20

21 RMS - Recovery Management Services,
Inc.; and DOES 1-10, inclusive,

22 Defendants.
23

Case No.

CV 12-7578-SS

COMPLAINT FOR DAMAGES
1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 ET. SEQ;
2. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
CAL.CIV.CODE § 1788 ET. SEQ.

JURY TRIAL DEMANDED

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27
28
COMPLAINT FOR DAMAGES

1 For this Complaint, the Plaintiff, Jacqueline Garcia, by undersigned counsel,
2 states as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
11

12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
13 Defendants transact business here and a substantial portion of the acts giving rise to
14 this action occurred here.
15

16 **PARTIES**

17 4. The Plaintiff, Jacqueline Garcia (hereafter "Plaintiff"), is an adult
18 individual residing in Glendale, California, and is a "consumer" as the term is defined
19 by 15 U.S.C. § 1692a(3).
20

21 5. Defendant, RMS - Recovery Management Services, Inc. ("RMS"), is an
22 Illinois business entity with an address of 222 N. LaSalle Street #300, Chicago,
23 Illinois 60601, operating as a collection agency, and is a "debt collector" as the term is
24 defined by 15 U.S.C. § 1692a(6).
25
26
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28

1 6. Does 1-10 (the “Collectors”) are individual collectors employed by RMS
2 and whose identities are currently unknown to the Plaintiff. One or more of the
3 Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

6 7. RMS at all times acted by and through one or more of the Collectors.
7

8 **ALLEGATIONS APPLICABLE TO ALL COUNTS**
9

10 **A. The Debt**

11 8. The Plaintiff allegedly incurred a financial obligation in the approximate
12 amount of \$15,000.00 (the “Debt”) for a student loan to creditor (the “Creditor”).
13

14 9. The Debt arose from services provided by the Creditor which were
15 primarily for family, personal or household purposes and which meets the definition
16 of a “debt” under 15 U.S.C. § 1692a(5).
17

18 10. The Debt was purchased, assigned or transferred to RMS for collection,
19 or RMS was employed by the Creditor to collect the Debt.
20

21 11. The Defendants attempted to collect the Debt and, as such, engaged in
22 “communications” as defined in 15 U.S.C. § 1692a(2).
23

24 **B. RMS Engages in Harassment and Abusive Tactics**

25 12. Within the last year, RMS contacted Plaintiff in an attempt to collect the
26 Debt.
27
28

1 13. RMS called Plaintiff at an excessive rate, placing approximately two
2 calls to Plaintiff's cellular phone on a daily basis.

3
4 14. RMS caused Plaintiff's telephone to ring before 8 a.m.

5 15. During numerous conversations, Plaintiff offered to make small monthly
6 payments toward the Debt until the obligation was fully satisfied.

7
8 16. RMS refused payments offered by Plaintiff, and often times laughed at
9 Plaintiff and used a condescending manner. RMS told Plaintiff that it was too late to
10 make payments, and demanded that Plaintiff pay the Debt in full immediately.

11
12 17. RMS oftentimes used loud and aggressive tone with Plaintiff, yelling and
13 interrupting Plaintiff in an effort to intimidate Plaintiff into making an immediate
14 payment.

15
16 18. RMS repeatedly terminated the call while Plaintiff was in mid-sentence.

17 19. RMS threatened to visit Plaintiff at her place of employment and publicly
18 embarrass Plaintiff for not paying the Debt.

19
20 20. To date, no payment toward the Debt was made by Plaintiff and no legal
21 action has been taken as threatened.

22 21. The treatment from RMS caused Plaintiff to feel oppressed and
23 humiliated.

24
25 22. RMS failed to inform Plaintiff of her rights in writing as it is required by
26 law.
27
28

1 **C. Plaintiff Suffered Actual Damages**

2
3 23. The Plaintiff has suffered and continues to suffer actual damages as a
4 result of the Defendants' unlawful conduct.

5
6 24. As a direct consequence of the Defendants' acts, practices and conduct,
7 the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety,
8 emotional distress, fear, frustration and embarrassment.

9
10 25. The Defendants' conduct was so outrageous in character, and so extreme
11 in degree, as to go beyond all possible bounds of decency, and to be regarded as
12 atrocious, and utterly intolerable in a civilized community.

13
14 **COUNT I**
15 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**
16 **15 U.S.C. § 1692, et seq.**

17 26. The Plaintiff incorporates by reference all of the above paragraphs of this
18 Complaint as though fully stated herein.

19 27. The Defendants contacted the Plaintiff before 8:00 a.m. and after 9:00
20 p.m., in violation of 15 U.S.C. § 1692c(a)(1).

21
22 28. The Defendants engaged in behavior the natural consequence of which
23 was to harass, oppress, or abuse the Plaintiff in connection with the collection of a
24 debt, in violation of 15 U.S.C. § 1692d.
25
26
27
28

1 29. The Defendants caused a phone to ring repeatedly and engaged the
2 Plaintiff in telephone conversations, with the intent to annoy and harass, in violation
3 of 15 U.S.C. § 1692d(5).
4

5 30. The Defendants misrepresented the legal status of the debt, in violation of
6 15 U.S.C. § 1692e(2).
7

8 31. The Defendants used unfair and unconscionable means to collect a debt,
9 in violation of 15 U.S.C. § 1692f.
10

11 32. The Defendants failed to send Plaintiff an initial letter within five days of
12 its initial contact with Plaintiff as required by law, in violation of 15 U.S.C. §
13 1692g(a).
14

15 33. The foregoing acts and omissions of the Defendants constitute numerous
16 and multiple violations of the FDCPA, including every one of the above-cited
17 provisions.
18

19 34. The Plaintiff is entitled to damages as a result of the Defendants'
20 violations.
21

22 **COUNT II**
23 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION**
24 **PRACTICES ACT, Cal. Civ. Code § 1788 et seq.**

25 35. The Plaintiff incorporates by reference all of the above paragraphs of this
26 Complaint as though fully stated herein.
27
28

1 36. The Rosenthal Fair Debt Collection Practices Act, California Civil Code
2 section 1788 et seq. (“Rosenthal Act”) prohibits unfair and deceptive acts and
3 practices in the collection of consumer debts.
4

5 37. RMS, in the regular course of business, engages in debt collection and is
6 a “debt collector” as defined by Cal. Civ. Code § 1788.2(c).
7

8 38. The Defendants threatened to communicate to other parties that the
9 Plaintiff was engaged in conduct which the Defendant knew to be defamatory, in
10 violation of Cal. Civ. Code § 1788.10(c).
11

12 39. The Defendants caused a telephone to ring repeatedly and engaged the
13 Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation
14 of Cal. Civ. Code § 1788.11(d).
15

16 40. The Defendants communicated with the Plaintiff with such frequency as
17 to be considered harassment, in violation of Cal. Civ. Code § 1788.11(e).
18

19 41. The Defendants failed to comply with the provisions of 15 U.S.C. §
20 1692, et seq., in violation of Cal. Civ. Code § 1788.13(e).
21

22 42. The Defendants falsely represented that a legal proceeding had been or
23 was about to be instituted unless the debt was paid immediately, in violation of Cal.
24 Civ. Code § 1788.13(j).
25

26 43. The Defendants did not comply with the provisions of Title 15, Section
27 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.
28

51. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from the Defendants.

52. All acts of the Defendants and its agents were committed with malice, intent, wantonness, and recklessness, and as such, the Defendants are subject to punitive damages.

COUNT IV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

53. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

54. The acts, practices and conduct engaged in by the Defendants vis-à-vis the Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

55. The foregoing conduct constitutes the tort of intentional infliction of emotional distress under the laws of the State of California.

1 E. Statutory damages of \$1,000.00 for knowingly and willfully committing
2 violations pursuant to Cal. Civ. Code § 1788.30(b);


3
4 F. Actual damages from the Defendants for the all damages including
5 emotional distress suffered as a result of the intentional, reckless, and/or
6 negligent FDCPA violations and intentional, reckless, and/or negligent
7 invasions of privacy and intentional infliction of emotional distress in an
8 amount to be determined at trial for the Plaintiff;
9

10 G. Punitive damages; and
11

12 H. Such other and further relief as may be just and proper.
13

14 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

15
16 DATED: August 31, 2012 TAMMY HUSSIN

17
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19 By: _____
20 Tammy Hussin, Esq.
21 Lemberg & Associates, LLC
22 Attorney for Plaintiff, Jacqueline Garcia
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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Jacqueline Garcia

PLAINTIFF(S)

v.

RMS - Recovery Management Services, Inc.; and
 DOES 1-10, inclusive,

DEFENDANT(S).

CASE NUMBER

CV12-7578-SS

SUMMONS

TO: DEFENDANT(S): RMS

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Tammy Hussin, of counsel Lemberg & Associates, whose address is 6404 Merlin Drive, Carlsbad, CA 92011. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: SEP - 5 2012

By: 
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].